

REMARKS***Response to Restriction Requirement***

Claims 1-38 are pending in the instant application. Claim 34 has been amended to add an additional route of administration. Support for the amendment to claim 34 can be found in the specification as originally filed, for example, at least at page 4, line 19; page 17, lines 4 and 13 and page 21, lines 1-5 and 19. Accordingly, no new matter has been added.

According to the Office Action, restriction to one of the following inventions in the above-identified application is required under 35 U.S.C. §121:

Group I: Claims 1-20 and 29-37, drawn to one or more fragile nutrient cochleates formulation comprising fragile nutrient, a negatively charged lipid component and a multivalent cation component and method of delivering these compositions classified in class 424, subclass 450.

Group II: Claims 21-28, drawn to a method of making a fragile nutrient cochleates comprising, dissolving a negatively charged lipid component and fragile nutrient component in an organic solvent to form a liposome and exposing the fragile nutrient liposome to multivalent cation, classified in class 427, subclass 213.3.

Group III: Claim 38, drawn to a method of treating a subject, by delivering a fragile nutrient cochleate formulation, classified in class 514, subclass 44.

Accordingly, Applicants hereby elect Group I, claims 1-20 and 29-37 without traverse for continued examination.

It is Applicants' understanding that, upon finding of an allowable product claim, process claims and/or method of use claims that depend from the product claim or otherwise include all of the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP §821.04.

Election of Species

According to the Office Action, Applicants are further required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is held allowable. In addition, Applicants are required to identify a subspecies within a species. Applicants hereby elect the following species and subspecies for examination:

- a. fragile nutrient component: phytochemical (claims 8-10)
 - i. beta-carotene (claim 10)
- b. additional cargo moiety: vitamin (claim 14)
- c. one product: personal care product (claim 19)
 - ii. skin care product (claim 20)
- d. *no election required*
- e. a method of delivering fragile nutrients to a subject (claims 30-33)
 - i. health bar (claim 30)
 - ii. skin care product (claim 33)
- f. administration route: oral (claim 34)

Applicants understand that the species elections are for searching purposes only. Thus, upon the allowance of a generic claim, Applicants are entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

SUMMARY

Applicants believe the pending application is in condition for allowance. If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned attorney at (617) 227-7400.

Dated: August 29, 2007

Respectfully submitted,

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